

**TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE**



**FISCAL NOTE**

**SB 1903 - HB 1637**

March 24, 2009

**SUMMARY OF BILL:** Makes various revisions to Tenn. Code Ann. Title 8 relative to notaries which include the following: increases from \$10,000 to \$1,000,000 the amount of bond needed for a notary public; makes a conviction of a felony a basis for disqualification to hold the position of notary; makes it a Class C felony offense for a notary to notarize the signature of a person on a quitclaim or warranty deed if the notary knows the person signing the deed is not the actual owner of the property; makes it a Class E felony offense for a notary to notarize the signature of a person on a quitclaim or warranty deed if the notary fails to use due care to determine whether the signer is the actual owner of the real estate; requires a law enforcement officer to deny access to any residence upon receiving a complaint concerning the true ownership of the property pending judicial resolution.

**ESTIMATED FISCAL IMPACT:**

**Decrease State Revenue - \$119,900**

**Increase State Expenditures - \$27,400/Incarceration\***

**Decrease Local Revenue - \$167,900**

Assumptions:

- A decrease in the number of filings of notary commissions with county court clerks and the Secretary of State based on the increase in the amount of surety bond required for a notary.
- According to the Secretary of State, approximately 24,000 individuals are elected or re-elected each year (for a 4-year term) by county legislative bodies to the position of notary.
- A \$1,000,000 bond would be higher than any notary bond in the country.
- Based on a \$1,000,000 bond, the anticipated fee for such bond would increase from approximately \$40 to several thousand dollars.
- According to the Secretary of State, the number of persons holding notary commissions is expected to decrease from 24,000 to approximately 20 who would be credit worthy and could qualify from an

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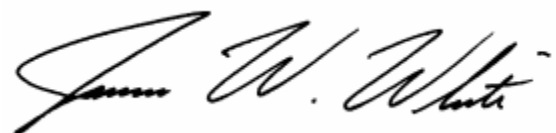
insurance underwriting perspective for the \$1,000,000 bond. A \$10,000 bond for notaries is customary across the country.

- The fee for the notary commission is split between the county clerk and the Secretary of State. The county portion of the fee is \$7.00 and the state portion of the fee is \$5.00.
- The decrease in state revenue is estimated to be approximately \$119,900  $[(24,000 \times \$5.00 = \$120,000) - (20 \times \$5.00 = \$100)]$ .
- The decrease in local revenue is estimated to be approximately \$167,860  $[(24,000 \times \$7.00 = 168,000) - (20 \times \$7.00 = \$140)]$ .
- According to the Department of Correction, the average operating cost per offender per day for calendar year 2009 is \$59.80.
- According to DOC, the average post-conviction time served for a Class C felony is 3.59 years. One Class C felony every five years with 1,311.48 days time served. The annualized time served per conviction is 262.30 days  $(0.20 \times 1,311.48 \text{ days})$ . The annualized cost per conviction is \$15,685.54  $(\$59.80 \times 262.30 \text{ days})$ .
- According to DOC, the average post-conviction time served for a Class E felony is 1.63 years. One Class E felony every three years with 594.45 days time served. The annualized time served per conviction is 196.17 days  $(0.33 \text{ annual number of convictions} \times 594.45 \text{ days served})$ . The annualized cost per conviction is \$11,730.97  $(\$59.80 \times 196.17 \text{ days})$ .
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. No significant incarceration cost increase will occur due to population growth in this period.
- Due to the small number of offenders, no recidivism discount has been applied for these offenses.

*\*Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

## **CERTIFICATION:**

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

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